

APPLICATION OF  
CSHS CUSTOMER SERVICE  
BUILDING 1, LTD FOR PERMIT  
NO. 12225

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§

BEFORE THE  
TEXAS COMMISSION  
ON  
ENVIRONMENTAL QUALITY

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

2008 MAY 27 PM 2: 28

CHIEF CLERKS OFFICE

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**EXECUTIVE DIRECTOR'S RESPONSE TO MOTION TO OVERTURN**

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The Executive Director of the Texas Commission on Environmental Quality (TCEQ or Commission) files this response to GSHA Customer Service Building 1, Ltd.'s Motion to Overturn in this matter. The Executive Director agrees that the wrong third page was included in Permit No. 12225 when the permit was signed.

After notice for the application for this Permit was issued, no hearing requests were received. Therefore, the Executive Director signed and issued the permit under 30 Tex. Admin. Code § 50.133(a). However, the Permit that was signed contained a third page that did not belong in the Permit. The Executive Director requests the Commission to grant the Motion to Overturn and issue the Permit attached to this response. The attached Permit contains the right third page and is a correct permit.

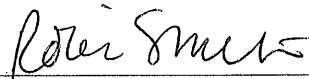
Respectfully submitted,

Texas Commission on Environmental Quality

Glenn Shankle  
Executive Director

Stephanie Bergeron Perdue  
Deputy Director, Office of Legal Services

Robert Martinez  
Director, Environmental Law Division

By   
Robin Smith, Staff Attorney  
Environmental Law Division  
State Bar No. 18645600  
P.O. Box 13087, MC 173  
Austin, Texas 78711-3087  
512-239-1088

REPRESENTING THE  
EXECUTIVE DIRECTOR OF THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**Service List**  
**GSHS Customer Service Building 1, Ltd.**  
**Water Use Permit No. 12225**

Docket Clerk  
Texas Commission on Environmental  
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Joe W. Hart, III, PE  
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1201 NW Loop 281  
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Craig Ayers  
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CERTIFICATE OF SERVICE

I certify that on May 27, 2008, the "Executive Director's Response to Motion to Overturn" was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, and a complete copy was served to all persons listed on the attached mailing list via hand delivery, facsimile transmission, inter-agency mail, or by deposit in the U.S. Mail.



Robin Smith, Staff Attorney  
Environmental Law Division  
State Bar No. 18645600

CHIEF CLERKS OFFICE

2008 MAY 27 PM 2:29

TEXAS  
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ON ENVIRONMENTAL  
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## WATER USE PERMIT

PERMIT NO. 12225

TYPE §11.121

Permittee: GSHS Customer Service  
Building 1, Ltd.

Address: 700 East Marshall Ave.  
Longview, Texas 75601

Filed: September 7, 2007

Granted:

Purpose: Recreation

County: Gregg

Watercourse: Unnamed Tributary of  
Grace Creek, Tributary  
of the Sabine River

Watershed: Sabine River Basin

WHEREAS, applicant seeks authorization to construct and maintain a dam and reservoir with a capacity of 15.5 acre-feet of water and a surface area of 2.69 acres on an unnamed tributary of Grace Creek, tributary of the Sabine River, Sabine River Basin for in-place recreation purposes in Gregg County; and

WHEREAS, the proposed reservoir will be located 3.4 miles north of the City of Longview in the P.P. Rains Original Survey, Abstract No. 258, in Gregg County, Texas. Station 1+00 on the centerline of the proposed dam will be located N 30.0000° W, 7,350 feet, from the southeast corner of the P.P. Rains Survey, also being at 32.5499° N Latitude, 94.7357° W Longitude; and

WHEREAS, ownership of the inundated land is evidenced by a Deed, dated October 17, 2006, and filed and recorded, as document number 200624261, in the Gregg County Clerk's Office; and

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) finds that jurisdiction over the application is established; and

WHEREAS, the Executive Director recommends that special conditions be included in the permit; and

WHEREAS, no requests for a contested case hearing were received for this application; and

WHEREAS, the Commission has complied with the requirements of the Texas Water Code and Rules of the Texas Commission on Environmental Quality in issuing this water use permit;

NOW, THEREFORE, this Water Use Permit No. 12225 is issued to GSHS Customer Service Building 1, Ltd. subject to the following terms and conditions:

1. IMPOUNDMENT

Permittee is authorized to construct and maintain a dam and reservoir on an unnamed tributary of Grace Creek, tributary of the Sabine River, Sabine River Basin with a normal maximum capacity of 15.5 acre-feet of water and a surface area of 2.69 acres. The reservoir will be located 3.4 miles north of the City of Longview in the P.P. Rains Original Survey, Abstract No. 258, in Gregg County, Texas. Station 1+00 on the centerline of the dam will be located N 30.0000° W, 7,350 feet, from the southeast corner of the P.P. Rains Survey, also being at 32.5499° N Latitude, 94.7357° W Longitude

2. USE

Permittee is authorized to use the impounded water for in-place recreational purposes with no right of diversion.

3. TIME PRIORITY

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The time priority for this right is September 7, 2007.

4. TIME LIMITATIONS

A. Construction of the proposed dam and reservoir shall be in accordance with plans approved by the Executive Director. Construction of the dam without final approval of the construction plans is a violation of this authorization.

B. Construction shall begin within one year of issuance of this permit and be completed within two years of the issuance of this permit, unless Permittee applies for and is subsequently granted an extension of time before the expiration of these time limitations.

C. Failure to commence the proposed dam and reservoir within the period stated above shall subject all rights to this permit to forfeiture, subject to notice and hearing. After beginning construction, failure to timely construct the proposed dam and reservoir stated above shall subject this permit to cancellation in whole or in part, subject to notice and hearing.

5. SPECIAL CONDITIONS

- A. In order to protect the water quality of the reservoir and the water bodies downstream of the reservoir, the Permittee shall maintain a riparian buffer zone of permanent vegetation around the perimeter of the reservoir averaging 50 feet in width with the exception of reasonable access areas. The buffer zone shall be graded to have a slope no greater than 5% and planted with native vegetation at a density to ensure complete coverage at maturity.
- B. Permittee shall follow and implement the proposed mitigation plan when approved by the U.S. Army Corps of Engineers (USACE) and TCEQ through Section 401/404 of the Clean Water Act for Project Number 200600541.
- C. Permittee shall provide and maintain suitable outlets in good working condition in the reservoir to pass all inflows of state water that the permittee is not entitled to impound.

This water use permit is issued subject to all superior and senior water rights in the Sabine River Basin.

Permittee agrees to be bound by the terms, conditions, and provisions contained herein and such agreement is a condition precedent to the granting of this permit.

All other matters requested in the application which are not specifically granted by this water use permit are denied.

This water use permit is issued subject to the Rules of the Texas Commission on Environmental Quality and to the right continuing supervision of State resources exercised by the Commission.

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For the Commission

Date Issued: